IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

O R D E R

(1) S.B. CRIMINAL REVISION PETITION NO.619/2000
(State Vs. Prem Prakash & Ors.)

(2) S.B. CRIMINAL REVISION PETITION NO.633/2000
(State Vs. Prem Prakash & Ors.)

(3) S.B. CRIMINAL REVISION PETITION NO.431/2001
(State Vs. Manohar Swaroop Rai & Ors.)

Date of order : December 18th, 2007

P R E S E N T

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Vishnu Kachchwaha, Public Prosecutor for State.
Mr. P.N. Mohnani with
Mr. G.R. Punia, for the petitioners.

S.B. CRIMINAL REVISION PETITION NO.619/2000 :

All the aforesaid revision petitions have been filed by State being aggrieved and dissatisfied with the orders dated 2.8.2000 passed in criminal case No.130/97, 131/97 and 63/97, discharging the accused-

respondents under Sections 420, 467, 468, 471 and 120-B I.P.C.

In view of the fact that the charges levelled against the accused-respondents have been set aside in SB Criminal Revision Petition Nos. 178/2001, 414/2001, 456/2000 and 4703/2006 (DR/J), arising out of the same order, and liberty has been granted to the respondents herein as well as State to raise all their grounds before the trial Court, these revision petitions also stand disposed of in terms of the judgment rendered in aforesaid revision petitions.

(GOPAL KRISHAN VYAS), J.

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It is contended by learned Public Prosecutor that the learned trial Judge has committed grave error of law as well as facts while discharging the accused-respondents for the aforesaid offences.

According to the facts of the case Muster Roll No.28 of March, 1982 contains 40 names which are forged as all of them were not found to be residents of village Mandhav Ranoder and Gharniya. Likewise in Muster Roll No.80 of July, 1982, out of 13 persons, names of three persons were found to be correct and remaining were found forged. In Muster Roll No.81 of July, out of 22 persons five persons were found forged and they gave their thumb impressions in the muster roll were also forged and in the enquiry it was established on record that forged entries in the muster roll were made by the accused-respondents. In such circumstances, there was prima facie evidence but learned trial Judge has committed an error while discharging the respondents for offence under Sections 420, 467, 468 and 471 I.P.C. It is further submitted that no reasons were recorded by learned trial Court for discharging the respondents though upon the facts there is evidence of committing forgery for wrongful gain, therefore, the learned trial Court has committed illegality and discharged the respondents without considering the evidence in right perspective. According to learned Public Prosecutor, the learned trial Judge has committed an error while not accepting

the settled proposition of law laid down by this Court in case reported in Cr.L.J. 1984 Raj. 1495 in which making a false documents with the intention to cause financial loss to the State is sufficient for framing charge for aforesaid sections. The act of non-petitioners can be defined as offence of forgery but all these facts were not taken into account for the purpose of framing charge, therefore, discharging the non-petitioners for such offence is totally contrary to law. There is sufficient evidence against the non-petitioners for committing forgery. Therefore, this revision petition may be allowed and the learned trial Court may be directed to frame charge against the respondents for offence under Sections 420, 467, 468, 471 and 120-B I.P.C. for which the respondents have been discharged.

Learned counsel for the non-petitioners vehemently opposed the prayer and prayed that the learned trial Court has not committed any error which requires any interference by this Court. There was no evidence against the non-petitioners for framing charge for aforesaid offence. Likewise, according to the counsel for the non-petitioners, they were to be discharged for all offence but for framing charge of offence under Section 5 (1) (C) (d) of Prevention of Corruption Act and 120-B and 466 I.P.C., the revision petition has been preferred before this Court and the same is registered as SB Criminal Revision Petition

No.456/2000. It is prayed that non-petitioners have been discharged for offence for which sanction was accorded by State but the learned trial Court has illegally framed charged for offence for which no sanction has been accorded by State. Therefore, the revision petition is required to be dismissed and the revision petition filed by non-petitioner against the framing of charge as aforesaid deserves to be allowed.

S.B. CRIMINAL REVISION PETITION NO.633/2000 :

This revision petition has been filed by State being aggrieved and dissatisfied with the order dated 2.8.2000 passed in criminal case No.131/97 discharging the accused-respondents under Sections 420, 467, 468, 471 and 120-B I.P.C.

It is contended by learned Public Prosecutor that the learned trial Judge has committed grave error of law as well as facts while discharging the accused-respondents for the aforesaid offences.

According to the facts of the case, there was evidence on record for false entries of persons in muster rolls and false identification and forgery but learned trial Court has committed an error while discharging the respondents for offence under Sections 420, 467, 468 and 471 I.P.C. According to learned Public Prosecutor there is material evidence on record

for which aforesaid charged were to be framed but without assigning any reasons, the learned trial Court has discharged the non-petitioners for aforesaid offences, which is totally erroneous. Therefore, the learned trial Court ought to have framed charges against the non-petitioners for committing aforesaid offence. The order impugned is passed ignoring the facts of the case, therefore, it is a fit case in which on the basis of evidence on record, charge for offence under Sections 420, 467, 468 and 471 I.P.C. is to be framed.

On the contrary, counsel for the non-petitioners contended that the order passed by learned trial Court with regard to discharging the non-petitioners is in accordance with law and on the basis of evidence on record. It is further contended that for remaining part of the order with regard to framing charge for offence under Section 466 and 120-B I.P.C and Section 5 (1) (C) (D) (2), Prevention of Corruption Act, the revision petition filed by non-petitioner - Prem Prakash Mathur is pending before this Court. Therefore, the non-petitioner was rightly discharged for aforesaid offence. There is no error in the order of discharge. Hence the revision petition deserves to be dismissed.

S.B. CRIMINAL REVISION PETITION NO.431/2001 :

This revision petition has been filed by State being aggrieved and dissatisfied with the order dated 2.8.2000 passed in criminal case No.63/97 discharging the accused-respondents under Sections 420, 467, 468 and 471 I.P.C.

It is contended by learned Public Prosecutor that the learned trial Judge has committed grave error of law as well as facts while discharging the accused-respondents for the aforesaid offences.

According to the facts of the case, there was evidence on record for false entries of persons in muster rolls and false identification and forgery but learned trial Court has committed an error while discharging the respondents for offence under Sections 420, 467, 468 and 471 I.P.C. According to learned Public Prosecutor there is material evidence on record for which aforesaid charged were to be framed but without assigning any reasons, the learned trial Court has discharged the non-petitioners for aforesaid offences, which is totally erroneous. Therefore, the learned trial Court ought to have framed charges against the non-petitioners for committing aforesaid offence. The order impugned is passed ignoring the facts of the case, therefore, it is a fit case in which on the basis of evidence on record, charge for offence under Sections 420, 467, 468 and 471 I.P.C. is to be framed.

On the contrary, counsel for the non-petitioners contended that the order passed by learned trial Court with regard to discharge the non-petitioners is in accordance with law and on the basis of evidence on record. It is further contended that for remaining part of the order with regard to framing charge for offence under Section 466 and 120-B I.P.C and Section 5 (1) (C) (D) (2), Prevention of Corruption Act, the revision petition filed by non-petitioners is pending before this Court. Therefore, the non-petitioners were rightly discharged for aforesaid offence. There is no error in the order of discharge. Hence the revision petition deserves to be dismissed.

In view of the fact that the charges levelled against the petitioners have beens et aside in revision petition No.... and liberty has been granted to the petitioner as well as State to raise all their grounds before the trial Court, these revision petitions are disposed of in terms of the said judgment.

(GOPAL KRISHAN VYAS), J.

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S.B. CRIMINAL REVISION PETITION NO.619/2000 :

This revision petition has been filed by State being aggrieved and dissatisfied with the order dated 2.8.2000 passed in criminal case No.130/97 discharging the accused-respondents under Sections 420, 467, 468, 471 and 120-B I.P.C.

It is contended by learned Public Prosecutor that the learned trial Judge has committed grave error of law as well as facts while discharging the accused-respondents for the aforesaid offences.

According to the facts of the case Muster Roll No.28 of March, 1982 contains 40 names which are forged as all of them were not found to be residents of village Mandhav Ranoder and Gharniya. Likewise in Muster Roll No.80 of July, 1982, out of 13 persons, names of three persons were found to be correct and remaining were found forged. In Muster Roll No.81 of July, out of 22 persons five persons were found forged and they gave their thumb impressions in the muster roll were also forged and in the enquiry it was established on record that forged entries in the muster roll were made by the accused-respondents. In such circumstances, there was prima facie evidence but learned trial Judge has committed an error while discharging the respondents for offence under Sections 420, 467, 468 and 471 I.P.C. It is further submitted

that no reasons were recorded by learned trial Court for discharging the respondents though upon the facts there is evidence of committing forgery for wrongful gain, therefore, the learned trial Court has committed illegality and discharged the respondents without considering the evidence in right perspective. According to learned Public Prosecutor, the learned trial Judge has committed an error while not accepting the settled proposition of law laid down by this Court in case reported in Cr.L.J. 1984 Raj. 1495 in which making a false documents with the intention to cause financial loss to the State is sufficient for framing charge for aforesaid sections. The act of non-petitioners can be defined as offence of forgery but all these facts were not taken into account for the purpose of framing charge, therefore, discharging the non-petitioners for such offence is totally contrary to law. There is sufficient evidence against the non-petitioners for committing forgery. Therefore, this revision petition may be allowed and the learned trial Court may be directed to frame charge against the respondents for offence under Sections 420, 467, 468, 471 and 120-B I.P.C. for which the respondents have been discharged.

Learned counsel for the non-petitioners vehemently opposed the prayer and prayed that the learned trial Court has not committed any error which requires any interference by this Court. There was

no evidence against the non-petitioners for framing charge for aforesaid offence. Likewise, according to the counsel for the non-petitioners, they were to be discharged for all offence but for framing charge of offence under Section 5 (1) (C) (d) of Prevention of Corruption Act and 120-B and 466 I.P.C., the revision petition has been preferred before this Court and the same is registered as SB Criminal Revision Petition No.456/2000. It is prayed that non-petitioners have been discharged for offence for which sanction was accorded by State but the learned trial Court has illegally framed charged for offence for which no sanction has been accorded by State. Therefore, the revision petition is required to be dismissed and the revision petition filed by non-petitioner against the framing of charge as aforesaid deserves to be allowed.

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This revision petition has been filed by State being aggrieved and dissatisfied with the order dated 2.8.2000 passed in criminal case No.131/97 discharging the accused-respondents under Sections 420, 467, 468, 471 and 120-B I.P.C.

It is contended by learned Public Prosecutor that the learned trial Judge has committed grave error of law as well as facts while discharging the accused-respondents for the aforesaid offences.

According to the facts of the case, there was evidence on record for false entries of persons in muster rolls and false identification and forgery but learned trial Court has committed an error while discharging the respondents for offence under Sections 420, 467, 468 and 471 I.P.C. According to learned Public Prosecutor there is material evidence on record for which aforesaid charged were to be framed but without assigning any reasons, the learned trial Court has discharged the non-petitioners for aforesaid offences, which is totally erroneous. Therefore, the learned trial Court ought to have framed charges against the non-petitioners for committing aforesaid offence. The order impugned is passed ignoring the facts of the case, therefore, it is a fit case in which on the basis of evidence on record, charge for offence under Sections 420, 467, 468 and 471 I.P.C. is to be framed.

On the contrary, counsel for the non-petitioners contended that the order passed by learned trial Court with regard to discharging the non-petitioners is in accordance with law and on the basis of evidence on record. It is further contended that for remaining part of the order with regard to framing charge for offence under Section 466 and 120-B I.P.C and Section 5 (1) (C) (D) (2), Prevention of Corruption Act, the revision petition filed by non-

petitioner - Prem Prakash Mathur is pending before this Court. Therefore, the non-petitioner was rightly discharged for aforesaid offence. There is no error in the order of discharge. Hence the revision petition deserves to be dismissed.

S.B. CRIMINAL REVISION PETITION NO.431/2001 :

This revision petition has been filed by State being aggrieved and dissatisfied with the order dated 2.8.2000 passed in criminal case No.63/97 discharging the accused-respondents under Sections 420, 467, 468 and 471 I.P.C.

It is contended by learned Public Prosecutor that the learned trial Judge has committed grave error of law as well as facts while discharging the accused-respondents for the aforesaid offences.

According to the facts of the case, there was evidence on record for false entries of persons in muster rolls and false identification and forgery but learned trial Court has committed an error while discharging the respondents for offence under Sections 420, 467, 468 and 471 I.P.C. According to learned Public Prosecutor there is material evidence on record for which aforesaid charged were to be framed but without assigning any reasons, the learned trial Court has discharged the non-petitioners for aforesaid

offences, which is totally erroneous. Therefore, the learned trial Court ought to have framed charges against the non-petitioners for committing aforesaid offence. The order impugned is passed ignoring the facts of the case, therefore, it is a fit case in which on the basis of evidence on record, charge for offence under Sections 420, 467, 468 and 471 I.P.C. is to be framed.

On the contrary, counsel for the non-petitioners contended that the order passed by learned trial Court with regard to discharge the non-petitioners is in accordance with law and on the basis of evidence on record. It is further contended that for remaining part of the order with regard to framing charge for offence under Section 466 and 120-B I.P.C and Section 5 (1) (C) (D) (2), Prevention of Corruption Act, the revision petition filed by non-petitioners is pending before this Court. Therefore, the non-petitioners were rightly discharged for aforesaid offence. There is no error in the order of discharge. Hence the revision petition deserves to be dismissed.